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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of the States parties

MADAGASCAR

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FIRST PART

1. The national context

1.1 The country

The island of Madagascar is situated to the east of the African continent between 12° and 26° latitude south and 43° and 51° longitude east. It is crossed by the Tropic of Capricorn in its southern part. Separated from the African continent by the 400 km-wide Mozambique Channel, Madagascar is surrounded by other islands, including Comoro Island 400 km to the north-west, the Seychelles 1,200 km to the north-east, Réunion 600 km and Mauritius 800 km to the east.

With an area of 587 041 km^2, Madagascar is the world's fourth largest island, after Greenland, New Guinea and Borneo. Its vast territory is long and hilly and enjoys a range of climates from tropical to temperate.

1.2 Population

In 1993, there are some 12 million Malagasys (14,1 in 1995, 16.6 million in the year 2000): 98 men for 100 women.

The annual urbanization rate is 5.7 per cent.

The population structure by age group breaks down as follows:

- 18.2 per cent under four years of age;
- 26.9 per cent between 5 and 14 years of age (45 per cent under 15 years of age);
- 18.5 per cent between 15 and 24 years of age (64 per cent under 25 years of age.

At the start of the next century, close to 70 per cent of the population will be under 25 years of age.

Population density is modest: 19 inhabitants per km^2 with significant disparities: the center and the east coast are heavily populated while the southwest and the midwest are sparsely populated.

1.2.2. Demographic Components

Demographics and development are inseparable. For the past 20 years, the per capita gross national product (GNP) has been steadily decreasing (by about 50 per cent), partly because economic growth remained well below population growth rates (between 2.7 per cent and 3.2 per cent). At present, average population density is 19 inhabitants per square kilometer; this density, however, when compared to the availability of arable land, bodes well for a better future if a population policy is put into effect based on family planning and the development of deserted and under-utilized areas. The National

Population Policy Act (enacted in December 1991) establishes a framework of State intervention in population matters and sets objectives: the prevalence of contraception by 20 per cent for the year 2000; a decrease in fertility rates from 6.5 per cent to 6.5 per cent.

1.3 Economic Data

- From 1988 to 1990: Madagascar enjoyed an annual growth rate exceeding 3 per cent;

- 1991: A serious political and institutional crisis caused the economy to slide; negative growth was reported (-7 per cent);

- 1992: Reported a barely 1.4 per cent growth rate.

- 1993 growth prospects are very modest: 1.4 per cent.

The debt service ratio stands at 75.2 per cent of annual exports. Structural adjustment programmes have led to a serious decline in the standard of living of the population', 40 per cent of whom are living under the poverty threshold (established by the minimum guaranteed salary (MSG) or 34,000 Malagasy francs (FMG)).

In 1993, the level of the State's allocations to the social sector averaged no more than 12 per cent (against 14 per cent in 1992). The weight of the debt mortgages the country and inhibits its capacity to invest and to act: every Malagasy citizen has a "debt" of 640 000 FMG.

1.4 State Structure (Constitution of the Republic of Madagascar):

It comprises:

- The executive branch, composed of the President of the Republic and the Government;

- The legislative branch, represented by the National Assembly and the Senate;

- The Judiciary, embodied in the Constitutional Court for Administration and Finance, the Supreme Court, the Courts of Appeal, the tribunals and the High Court of Justice.

The President of the Republic is the Head of State. As the "ray amandreny", he safeguards the Constitution. He is elected by direct universal suffrage to a five-year term; he may be re-elected only once.

The Government is composed of a Prime Minister and Ministers. The Prime Minister directs Government action and has the responsibility for coordinating activities with the ministerial departments. The appointment of the other members of Government is made by the President of the Republic in accordance with the Prime Minister's recommendations. The functions of the members of Government are incompatible with the exercise of elective public office of any

kind, or any professional lobbying function, or any other public employment or other paid professional activities.

The members of the National Assembly have the title of Deputies of Madagascar. They are elected to a four-year term by direct universal suffrage under a system of election by lists and proportional representation. The mandate of a deputy precludes the exercise of public employment of any kind except teaching, and of any other elective public office. Any deputy appointed member of Government will automatically be deprived of his office. Compulsory votes are invalid.

The members of the Senate have the title of Senator of Madagascar. Theirs is a four-year mandate. The Senate examines all proposed bills. It must be consulted by the Government on all economic and social questions and on matters pertaining to territorial management. The office of senator is incompatible with that of deputy.

The judiciary branch is independent from the executive and legislative branches. The Constitutional Court for Administration and Finance and the Supreme Court constitute the guarantors of that independence.

Decentralized territorial collectivities, endowed with legal status and financial autonomy, constitute the institutional framework for the actual participation of Malagasy citizens in public affairs and guarantee their right to express their diversities and specific characteristics.

1.4 While present-day Malagasy society is patriarchal, it was once preceded by a matriarchal society in which women occupied a dominant position, as illustrated by the queens in power during the pre-colonial period. Traces of that civilization are still essentially to be found in the perception of women as a "link establishing continuity between the past and the future" because of their ability to give birth.

2. <u>The National machinery for monitoring the status of women</u>

In order to promote and ensure the development and social progress of women and thus to guarantee their enjoyment of fundamental rights and freedoms on the basis of equality with men, Madagascar created in 1976 a Ministry of Population and Social Affairs, which includes a Directorate for the Advancement of the Status of Women and Children, as a national body "responsible for monitoring the status of women in society". At present, the General Directorate for Population monitors and coordinates all activities of the Directorate for the Advancement of the Status of Women and Children.

2.1 The Directorate for the Advancement of the Status of Women and Children is responsible for implementing Government policy concerning the participation of women in the country's economic, social and political development.

The Directorate is made up of three services:

- The Service for the Promotion of Women

- The Service for Children's Affairs

- The Family Welfare Service,

It focuses its efforts mainly on:

- Improving the general position of women;

- Improving the situation of children;

- Reintegrating the unemployed into the work force by establishing special structures for women, social centres offering training to young women and girls and "pre-cooperatives" or workshops providing them with opportunities for gainful employment.

2.2 The Directorate for the Advancement of the Status of Women and Children is also responsible for coordinating the activities of organizations and associations that work towards improving women's conditions.

At this point, mention should be made of the 8th of March Women's Associations.

(a) Historical Background

On the initiative of the Ministry of Population, Social Affairs, Youth and Sports, the celebration of International Women's Day on 8 March has afforded an opportunity for the women's associations of decentralized communities to combine as a single association for the purpose of identifying activities of benefit to women in Madagascar's decentralized communities. The title, "8th of March Women's Committee Association" was created by these groups to indicate that they had founded it by dedicating that day to women and that they intended to pool their efforts and work through their respective associations to promote the welfare of the entire population.

(b) The members of these 8th of March Associations come from a wide range of social and political backgrounds. All occupations are represented: doctors, teachers, housewives, the liberal professions, etc. Members may also already belong to other organizations such as the International Committee of the Red Cross and religious or secular groups.

(c) Activities of the 8th of March Associations

The Associations' activities deal with all areas of work that promote the status of women, including:

- Economic and social activities in favour of women;

- Girls' education and training;

- Consciousness-raising among groups of women to improve standards of health and hygiene;

- The improvement of children's nutrition.

The Associations collaborate closely with the Directorate for the Advancement of the Status of Women and Children, of which they form a kind of regional branch. They are responsible for the local implementation of the programmes developed by the Directorate at the decentralized level and work in concert with the Provincial Population Services.

2.3.2. Non-Governmental Organization Partners

In order to implement women's development projects, the Directorate for the Advancement of the Status of Women and Children responsible for the national management of these projects has chosen the path of partnership. Such is the case for Project MAG/88/029, "Education and Training for the Promotion of Employment of Rural and Urban Women" (financed by UNDP and jointly carried out with the International Labour Office).

This collaboration with women's non-governmental organizations is not limited to implementing projects but includes all activities to be carried out that are already within the scope of these organizations. It is the responsibility of the General Directorate for Population to coordinate all activities with women's non-governmental organizations.

2.3.3. "Women and Development" Associations

In September 1992, a national workshop entitled "Women and Development" was held in Antananarivo under the joint auspices of the Ministry of Population, UNICEF and the French Cooperation Mission for Madagascar. As a part of the preparatory work for the Fourth World Conference on Women to be held in Beijing in 1995, the objective of the workshop was to define the fundamental principles governing development activities in favour of women.

Inasmuch as the results of the workshop should be operational, regional workshops entitled "Women and Development" are being created since June 1993 at every provincial level. The activities of every Regional Workshop will include within its framework the establishment of a "Women and Development" unit and regional action plan. In the course of the coming month of October, every province will have created its own "Women and Development" unit and its regional action plan.

SECOND PART

"Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or in any other field.

"Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

(g) To repeal all national penal provisions which constitute discrimination against women."

"Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality of men."

Malagasy national legislation offers no definition of the term "discrimination".

However, article 12 of the Constitution of the Democratic Republic of Madagascar of 30 December 1975 includes a guarantee of equality as well as non-discrimination based on sex:

"The State ensures the equality of all citizens by:

- Guaranteeing the unity of the social order and the socialist judicial system, as well as the unity of the system with regard to legislation and regulation;

- Undertaking to remove any economic and social obstacles which limit equality between citizens, impede the development of individuals as human beings and prevent the effective participation of all workers in political, economic and social organization; and

- Prohibiting all discrimination based on race, ethnic origin, religious belief, level of education, wealth or sex.

The institutions responsible for ensuring due application of the principle of equality between men and women are the Administrative Chamber and the Constitutional High Court, to which women have recourse if they object to an administrative decision or a text which they feel is discriminatory.

"Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory."

Madagascar has not yet adopted any special provisional measures to establish equality between the sexes in practical terms. Measures to protect maternity are considered under article 11.

"Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their

children, it being understood that the interest of the children is the primordial consideration in all cases."

1. Obstacles to female employment

Women's energies are sapped enormously and their opportunities for improving productivity are restricted by their family responsibilities and their daily duties as wives and mothers. Inflexible mental attitudes are also detrimental to their employment prospects. Fixed ideas about the aptitude of men or women for a particular occupation play a major role in the compartmentalization of jobs according to sex.

The exclusion of women from certain areas of employment is related to the nature of the work involved and is based on three main reasons:

- The unsuitability of women for hard work requiring physical effort;
- The unsuitability of women for managerial posts;
- The inappropriateness of women in predominantly male areas of employment.

Mining work, for example, recruit men only, even for posts for which women would normally also apply (nurses, doctors, etc.). In short, fears and apprehensions are the result of mental attitudes which belong to the distant past.

There are other factors at work in limiting women's opportunities in the vocational domain. Inadequate information and training impede their entry into the job market. Lacking sufficient information on the precise needs of this market, women tend to opt for types of training and employment which do not always match job demand. In order to mobilize women in national production it will therefore be necessary to apply a set of measures to remove the obstacles to their effective participation in economic activity.

2. The objective of the Directorate for Women's and Children's Affairs in the economic sphere is to upgrade women's productive role. The Directorate is promoting the income-generating employment of women in traditionally female occupations such as basket-making, weaving, braiding, embroidery, dress-making, etc., in order to help women to improve their standard of living.

Women are grouped in "pre-cooperatives", which are small production units based on mutualist principles. The responsible Direccorate has provided these units with dress-making workshops, equipment (such as sewing machines, etc.), tools and raw materials. The Directorate also gives guidance to women who wish to start up businesses or have already done so, whether individually or in groups. A project entitled "Training to promote female employment in urban and rural areas" will help to open up new opportunities for gainful employment for the various categories of women working in the informal sector (see Section 2.3.2. above, NGO Partners).

3. These economic initiatives on the part of the Directorate for the Advancement of the Status of Women and Children are backed up by educational initiatives aimed at informing the public about the national profile of women or their role in national development. The main aim of this initiative is to inform women about their rights and obligations and the different possibilities and opportunities open to them for broadening their sphere of action. Such educational initiatives utilize all the media, whether television, radio, the press, films, conferences or special events of various kinds. They can be considered extremely successful in that large numbers of women are coming together to form non-governmental organizations working to improve the status of women.

"Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."

This provision concerns the obligation placed upon the State to take whatever steps are necessary to penalize all forms of exploitation or maintenance of the debauchery or prostitution of women.

Before going any further, it should be stressed that as far as morality is concerned, Malagasy substantive law supports the principle of sexual freedom with regard to adults and those who are free. In matters relating exclusively to sexual morality, the legislator does not consider judgment appropriate except where the aforementioned sexual freedom limits the sexual liberty of others or disturbs public order. In such cases, the behaviour or activity of the individual falls within the provisions of the law as it applies to offences of indecent assault, indecent exposure, rape, procuring, and so forth.

This being the case, we shall look at the following in turn from the point of view of Malagasy substantive law:

- Prostitution;
- The exploitation of the debauchery of others (men and women);
- Obscene literature.

I. PROSTITUTION

1.1 Prostitution from the point of view of criminal law

From the point of view of criminal law, Malagasy substantive law neither criminalizes nor encourages prostitution; it is not considered an infringement of the law and a person engaging in prostitution is considered to be in a de facto rather than *de jure* situation. In other words, there is no legislation concerning prostitution.

In an indirect way, however, through articles 354 and 356 of the Criminal Code and solely with respect to minors, a sexual partner may be prosecuted for abduction of minors. Article 354, for instance, provides that "Whosoever by deception or violence kidnaps a minor or causes a minor to be kidnapped, lured, abducted or removed from a location where he was placed by persons in authority or persons to whose authority he had been submitted or entrusted shall be liable to a term of imprisonment of from five to ten years ..."

1.2. Prostitution from the point of view of civil law

From the point of view of civil law, a number of provisions attach penalties, either directly or indirectly, to specific intentions or attitudes deemed detrimental to public morality. These provisions include the following:

- Article 9 of Order No. 62-041 of 19 September 1962 concerning the general provisions of domestic law and international private law states that "there may be no derogation by specific Conventions of laws concerning public order and public morality".

- Articles 90 and 92 of Law No. 66-033 of 2 July 1966 concerning the general theory of obligations render null and void any legal act whose subject or cause conflicts with public order and public morality.

Therefore, any contract made with the object of selling an individual, for the purpose of prostitution or not, is rendered null and void as being contrary to public order and morality.

II. EXPLOITATION OR MAINTENANCE OF THE DEBAUCHERY OR PROSTITUTION OF OTHERS

The exploitation or maintenance of the debauchery or prostitution of others is covered by articles 334, 334 bis and 335 of the Criminal Code in a section entitled "Offences against Public Morality".

Three separate offences emerge from an analysis of these articles:

- Procuring;

- Incitement of minors to debauchery,

- Keeping of a disorderly house.

2.1. Procuring

Under articles 334 and 334 bis all acts of procuring which may result from either the exploitation of the prostitution of another person or the exploitation of unremunerated debauchery are punishable criminal offences.

Analysis of article 334 of the Criminal Code reveals six types of offence considered to constitute procuring:

(1) Procuring by assisting or protecting the prostitution of another person or soliciting with a view to prostitution;

(2) Procuring by sharing the proceeds of prostitution;

(3) Procuring through life companionship with a person habitually engaged in prostitution;

(4) Procuring by recruiting, inveigling or maintaining with a view to debauchery;

(5) Procuring by giving another person over to prostitution or debauchery;

(6) Procuring by acting as an intermediary (canvassing, written or oral mediation, soliciting, procuring, touting for custom, etc.).

Procuring is a criminal offence punishable by the following:

- Without aggravating circumstances: a term of imprisonment of from six months to two years and a fine of from 300,000 to 3,000,000 FMG;

- With aggravating circumstances (minor victim, crime accompanied by violence, etc.): a term of imprisonment of from two to five years and a fine of from 750,000 to 7,500,000 FMG.

2.2 Incitement of minors (under 21 years of age) to debauchery

The incitement of minors to debauchery is a criminal punishable offence under article 334 bis of the Criminal Code. Under this article, criminal acts are those tending to incite, encourage or facilitate the debauchery or corruption of minors under 21 years of age, whether or not they have already been corrupted. In such cases the offender is liable to the same penalties as those attaching to the crime of procuring (without aggravating circumstances).

2.3 Keeping of a disorderly house

Under article 335 of the Criminal Code penalties are attached to two separate offences:

2.3.1. The keeping of a brothel

It should be noted that this is deemed an offence whether or not the brothel is open to the public and whether the persons offered to clients live in the house itself or elsewhere.

2.3.2. The habitual presence of persons engaged in prostitution in specific places open to the public

All acts or attitudes of any owner, manager or person placed in charge of a hotel, boarding-house, bar, club or dance hall who does not oppose the habitual presence of one or more persons engaging in prostitution on the premises are deemed to be criminal, whether or not the prostitute is a client, tenant,

servant, employee, etc. In both cases the penalty is the same as that foreseen under article 334 bis, i.e. a term of imprisonment of from two to five years and a fine of from 750,000 to 7,500,000 FMG. The law provides for various penalties to supplement this main penalty, including withdrawal of licence, closure of establishment, etc.

III. OBSCENE DOCUMENTS

The dissemination of obscene documents such as pornographic magazines and erotic or pornographic films constitutes indecent behaviour, a criminal offence punishable under Order No. 75.15 of 8 July 1975 concerning the suspension of newspapers and periodicals whose publication tends to disturb public order, jeopardize national unity or offend public morality.

"Article 7

State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country."

1. Women have the right to vote in all elections on the same terms as men. They may also have their names registered in electoral rolls on the same terms as men.

2. Under Order No. 82-016 of 16 May 1982:

"First article: All Malagasy citizens, irrespective of sex, have the right to vote, provided that they are at least eighteen years of age on the day of the poll and do not fall under the provisions of article 2 of the present order.

Irrespective of sex, all Malagasy citizens may stand for election provided they are at least twenty-one years of age on the closing date of applications to stand for election and are duly registered in the electoral roll and provided their situation is in order with respect to their national service obligations.

The conditions of suffrage of women who have acquired Malagasy nationality by marriage are established by the Malagasy Nationality Code.

The conditions of suffrage of foreign naturalized Malagasy citizens are established by articles 37, 38 and 39 of the aforementioned Code.

Article 2: The following persons are deprived of the right to vote and may not, therefore, be registered on the electoral roll referred to by article 3 below:

1. Individuals convicted of crimes;

2. Persons sentenced to a term of imprisonment, suspended or not, or awarded a fine, suspended or not, of over 50,000 FMG for a criminal offence with the exception, however, of verdicts pronounced in the following cases:

   (a) For crimes of negligence, except where the offender fails to report the crime;

   (b) For violations, other than those of the laws governing companies and enterprises, which are deemed criminal offences but are not, however, subject for the purposes of law enforcement to proof of bad faith on the part of their perpetrators and which are punishable by a fine only;

3. Persons for whom a warrant of arrest has been issued but not carried out;

4. Undischarged bankrupts;

5. Mentally insane persons under restraint and confined to an asylum;

6. Persons deprived of the right to vote by the judicial authorities under the relevant laws."

"Article 8

State Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations."

There is no legal text forbidding Malagasy women or limiting their freedom to represent their Government at the international level and to participate in the work of international organizations.

"Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband

during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children."

In Malagasy substantive law the question of nationality is covered by Order No. 60-064 of 22 July 1960.

It should first be noted that in matters of nationality Malagasy substantive law is predicated on the principles of liberty and equality of treatment between men and women with respect to the award, acquisition and loss of nationality. Thus, in certain individual cases, the prevalence of the nationality of one person over that of the other should be regarded as a means of avoiding any negative or positive dispute over nationality rather than as a discriminatory attitude.

1. The Nationality of the married women

1.1. A Malagasy woman marrying a man of foreign nationality

Two cases should be distinguished:

1.1.1. Loss of Malagasy nationality by declaration (loss of nationality by marriage)

Under paragraph 1 of article 47 of the Malagasy Nationality Code "a Malagasy woman marrying a foreigner retains Malagasy nationality provided that she does not expressly declare the wish to acquire her husband's nationality under the national law of his country". A Malagasy woman marrying a foreigner may choose to retain her original nationality or to acquire that of her husband on the sole condition that the substantive law of his country so permits, the aim of this condition being to avoid statelessness. Thus, marriage with a foreigner does not automatically imply loss of Malagasy nationality for a Malagasy woman.

1.1.2. Loss of Malagasy nationality ipso facto by marriage

Under article 47, paragraph 2, "she (the Malagasy woman) forfeits her Malagasy nationality if the couple establish their first domicile outside Madagascar after their marriage and if the wife automatically acquires her husband's nationality through marriage". Once the conditions set forth in paragraph 2 of article 47 are satisfied, the Malagasy woman "automatically" - through imposition of the law - loses her Malagasy nationality through the compulsory acquisition of the nationality of her foreign husband.

1.2 Nationality of a foreign woman marrying a man of Malagasy nationality

Pursuant to article 22 of the Malagasy Nationality Code, "a foreign woman marrying a Malagasy only acquires his nationality if she expressly requests to do so or if, in conformity with the provisions of her national law, she

automatically loses her nationality. A stateless woman marrying a Malagasy acquires Malagasy nationality".

1.3 Nationality of a married woman by virtue of her husband's acquisition, during the marriage, of a foreign nationality

A change in the husband's nationality during the marriage does not affect that of his wife, except if she also wishes to acquire his new nationality, in which case she has to follow the same procedures as her husband. In addition, it should be noted that the case foreseen by paragraph 2 of article 47 applies only if the husband was of foreign nationality when the marriage took place.

1.4 The right of the married woman to change her nationality

It should be pointed out that in Malagasy substantive law, pursuant to article 56 of Order No. 62-089 concerning marriage: "Marriage does not prejudice the legal capacity of the spouses..."

Therefore, a married woman wishing to change her Malagasy nationality by acquiring a foreign nationality may do so without obtaining her husband's authorization in any form. The chapter entitled "Loss of Malagasy Nationality" does not contain any provision stipulating restrictive measures with respect to women. Thus, article 42 of the Malagasy Nationality Code provides in general terms that: "Malagasy citizens who have attained their majority shall lose their Malagasy nationality if they voluntarily acquire a foreign nationality".

In the same way, a married woman may obtain a passport or travel abroad without her husband's authorization.

2. Nationality of the Children

The problem of nationality does not arise for the children of Malagasy parents, since they are automatically entitled to Malagasy nationality. We are concerned here with children born to a Malagasy mother and a foreign father.

2.1 Nationality of children born of a legitimate marriage

In this case, the nationality of the children is based on that of the father.

(a) Principle: Under article 9.1 of the Malagasy Nationality Code, "a legitimate child born to a Malagasy father has Malagasy nationality". It follows from this article that the child's nationality is determined by that of its father, so that if one turns the article around, it follows that a legitimate child born to a foreign father will be of foreign nationality even if its mother is Malagasy;

(b) Exception: The nationality of a Malagasy mother determines the nationality of her legitimate children in exceptional circumstances only. Under article 9.2 (e), this is the case when a foreign father is either stateless or has no known nationality.

However, attention should be drawn to the opportunity offered by article 16 of the Malagasy National Code to under-age legitimate children born of a foreign father to claim the nationality of their Malagasy mother until they reach their majority.

2.2 Nationality of children born out of wedlock

In such cases the mother's nationality prevails over that of the father.

(a) Principle: The nationality of children born out of wedlock is determined by the mother's nationality. Thus, under article 10.1, any child born out of wedlock is Malagasy if the mother is Malagasy.

(b) Exception: The nationality of children born out of wedlock is determined by the father's nationality in exceptional circumstances only. In this respect, by turning around article 10.2 (e), under which "children born out of wedlock have Malagasy nationality when the mother is unknown or of unknown nationality", the nationality of a child born to an unknown mother or a mother of unknown nationality is foreign if the father is of foreign nationality.

"Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly

those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning."

1. General characteristics of education in Madagascar

Madagascar has put into effect a free compulsory education system by founding more public educational establishments under the aegis of a single ministry. Efforts have been focused on strengthening school structures as part of the programme to re-establish education (after 1972) on the principles of democratization, decentralization and the restoration of Malagasy national characteristics. This policy was motivated by a desire to check the tendency towards elitism displayed by education before 1972, a tendency which prevented a large number of pupils from fully developing their abilities. The efforts being made to decongest schools seems to be on the right track, despite the difficulties encountered.

2. School attendance of girls

School attendance rates are 57.1 per cent for girls and approximately 60.3 per cent for boys.

Furthermore, girls do not even make up half of the pupils attending school and their numbers decrease slightly as the level of education increases: the attendance rate of girls is 48.5 per cent at primary level, and decreases to 42.80 per cent at secondary level. There has, none the less, been an appreciable increase in the numbers of girls attending school. The post-1972 school reforms have been largely responsible for this increase, which has, moreover, continued steadily in recent years. The desire to send girls to school has also progressed over the years. This is partly due to the higher educational level of parents compared with that of previous generations.

3. Subjects in which girls tend to specialize

All branches of education are now open to girls. However, their choices are directed towards subjects which they feel appropriate to their sex, irrespective of the labour market (see article 5 above). In 1982, 76.8 per cent of pupils in the crafts section (carpet sewing, weaving, etc.) were girls. By way of illustration, the following table shows that in the sections "secretarial skills" and "management techniques" in technical lycées the attendance rate of girls is 84.25 per cent and 46.64 per cent respectively. The same goes for the technical colleges where the "management techniques" and "dressmaking and

Analysis of Pupils in Technical Colleges by Sex and by Specialization - School Year 1987/88

Specialization	technical lycées No. of Pupils	No. of Girls	Percentage of Girls	technical lycées No. of Pupils	No. of Girls	Percentage of Girls
Automobile Engineering	321	5	1.55	216	10	4.62
Metalwork	354	12	3.38	375	35	9.33
Woodwork	264	8	3.03	370	41	11.08
Buildings	298	60	20.13	207	63	30.43
Public Works	205	53	25.85	140	39	27.86
Management Techniques	1 507	703	46.64	300	162	54.00
Buildings/Public Works	107	9	8.41	370	95	25.68
Fashion Design/Dress-making/Tailoring	0	0	0	389	210	53.98
Topography	59	10	16.95	0	0	0
Hydraulics	54	12	22.22	0	0	0
Architectural Drawing	52	5	9.61	0	0	0
Mining and Geology	106	19	17.92	0	0	0
Automated Production processes	299	18	6.02	64	10	15.62
Electronics	128	19	14.84	0	0	0
Electronical Engineering	426	62	3.40	0	0	0
Sheet Metals	78	29	37.18	62	5	8.06
Secretarial Skills	324	273	84.25	0	0	0
Printing	0	0	0	38	4	19.52
Agricultural Techniques	112	47	41.96	46	10	21.74
Sanitary Engineering	0	0	0	37	9	24.32
Total	4 694	1 344	28.63	2 614	693	26.54

Source: Ministry of Secondary and Basic Education.

tailoring" sections have the greatest number of female pupils with respective rates of 54 and 53.98 per cent. In the other sections considered suitable for boys, the average proportion of female pupils is no more than 20 per cent. These are significant facts which are partly due to the way girls are brought up from a very early age to perform the so-called "female" household tasks.

4. Madagascar has ratified the UNESCO Convention on the Elimination of All Forms of Discrimination against Women in the Field of Education.

5. Under articles 23 to 25 of the Constitution of the Republic of Madagascar, the State makes education and instruction available to children.

"Article 23

Every child has the right to receive instruction and education under the guidance of its parents and its freedom of choice must be respected.

Every adolescent has the right to receive professional training."

"Article 24

The State organizes free public education accessible to all.

Primary education is mandatory for all."

"Article 25

The State recognizes the right to private education and guarantees the freedom to teach provided that the conditions of hygiene, morality and aptitude established by law are met."

Private education institutions benefit from the same (fiscal regime) under the conditions established by law."

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and

the right to receive vocational training and retraining including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction;

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

1. It is worth listing first of all the Conventions of the International Labour Organization that have been ratified by Madagascar:

Convention No. 118 concerning equality of treatment of nationals and non-nationals in social security;

Convention No. 87 concerning freedom of association and protection of the right to organize;

Convention No. 81 concerning labour inspection in industry and commerce;

Convention No. 129 concerning labour inspection in agriculture.

2. Women who work in the formal sector

2.1. Article 27 of the Constitution states that:

"Work and occupational training are a right and a duty for all citizens.

Access to public office is provided to all citizens without any constraints other than their capabilities and aptitudes".

This is supplemented by:

Article 28: "No one may be denied work or employment on the basis of sex, age, religion, opinions, origin and political views";

Article 29: "All citizens have the right to be remunerated equitably according to the quality and the quantity of their work, to ensure that they and their family are able to live in dignity".

Under these provisions, women are considered on equal terms with men with respect to employment.

2.2. Regarding recruitment, remuneration or rights such as promotion, retirement, etc., there are no special provisions for women. However, provision is made for maternity leave and temporary leave.

(a) Maternity Leave

For women working in the civil service, maternity leave amounts to a total of eight weeks which may not be taken concurrently with any other statutory leave (annual or sick leave). These eight weeks are paid in full; maternity benefits (pre- and post-natal) are paid to the mother, and the administration contributes 80 per cent of the costs of confinement. During the child's first fifteen months, the mother is entitled to one hour's absence per day for nursing.

Female employees in the private sector are entitled to 14 weeks of maternity leave during which they are placed on half pay, which is payable in several blocks by the National Special Provident Fund. They are entitled to pre- and post-natal allowances, and also receive a lump-sum payment to reimburse their confinement costs. During their maternity leave female employees have the right to retain their posts.

(b) Leave of absence

Female employees in the public sector are granted leave of absence in the following two cases and on request:

- To look after a child under five years of age or a child with a physical disability requiring continuous care;

- To follow her husband if he is obliged, for occupational reasons, to establish his residence a long way from his wife's workplace.

2.3. Wives enjoy pension entitlements through their husbands and vice versa.

In law and in practice, Malagasy women enjoy equal rights with men to promotion, vocational training, retirement pensions and disability benefits.

3. Sectoral distribution of Malagasy women's occupations

3.1. In the agricultural sector, intensive labour and auxiliary labour

In 1985, female agricultural workers represented almost 49 per cent of the rural population. Three women out of four were engaged in farming activities; they represented 94 per cent of the population of working age.

The experience for over ten years of rural underemployment (for men and women) has given rise to survival strategies which include engaging in non-farming activities: almost 58 per cent of the population with such extra-farming activities are engaged in crafts (two persons out of three), textile production or trade, for periods ranging from three to six months.

3.2. The informal sector ranks second, after the agricultural sector, in providing employment for women. The reasons why women find this sector attractive have to do with their search for solutions to the scarcity of cash-generating employment, especially for a majority of women lacking basic skills. The heaviest concentration of jobs may be observed in the small trades and businesses, somewhat less in traditional activities such as crafts (basket-weaving, pottery, garments, etc.), very little in activities involving transformation and repair (metalwork, woodwork, automobile repairs, etc.). Of the latter, only 8 per cent are women entrepreneurs, 6 per cent are labourers, 28 per cent are apprentices and the majority are mainly hired as home workers in families.

3.3. The modern sector

3.3.1 The private sector: relatively few, low-qualification jobs, but growing. Two surveys made of employment structures in the modern sector in 1987 and in 1991 showed little female participation in this sector with a slight trend, however, toward the increasing feminization of permanent jobs. The proportion of women employed in this sector has increased from 11 per cent in 1986 to 17 per cent in 1990.

Sectoral distribution of female labour in the modern salaried sector

	%
Industrial	59
Services	32
Agricultural and farming-related	9

In terms of qualification levels, only 2.2 per cent of female workers have posts of higher responsibility and 5.4 per cent are middle managers.

3.3.2. Administration

Here women's participation is developing markedly. As compared to the total of civil servants, the proportion of women has more than doubled in ten years (1977-1987). From 20 per cent in 1977, the rate of femininization had increased to 43 per cent by 1987. This increase is the result of the lack of any kind of discrimination in public administration recruitment.

Job structure in terms of qualifications:

- 64 per cent of the women are concentrated at the bottom of the hierarchy. They have degrees such as the CEPE and B.E.P.C.;

- However, with a participation level of 43 per cent, the ratio of women who have university degrees (two years or more of college after the baccalaureate), as compared to the total of civil servants in that category is not insignificant.

"Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to insure, on the basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."

Health of the Malagasy Woman

1. Maternal mortality rates

1.1. Statistics:

Maternal mortality rates in Madagascar:

- 6.2 per cent in 1988;

- 5.4 per cent in 1989;

- 4.6 per cent in 1990.

These averages hide the imbalance which exists between town and country. Moreover, the slight decline in mortality rates is due to the involvement of the

public authorities and the development of women within their sociocultural environment. They should continue to decline; recently, however, a deterioration in sanitary conditions and nutrition has unfortunately been observed.

1.2. Causes of maternal mortality

1.2.1. The direct causes are abortions and complications during pregnancies:

- Abortions: 22.1 per cent of maternal deaths in hospitals, 40 per cent in rural areas;

- Complications arising from pregnancies: 32.5 per cent (haemorrhages, rupture of the uterus, toxemia, infections, eclampsia, dystocia.

1.2.2. The indirect causes are many:

- Adverse pregnancy conditions (conditions of hygiene and bad states of nutrition);

- Mothers who are too old, combined with too many births;

- Fertile adolescents;

- Unwanted pregnancies;

- Lack of timely medical treatment or surgery;

- Unmonitored pregnancies (visits before and after birth):

  - 54 per cent of pregnant women made at least one medical visit during pregnancy; only 5 per cent completed the standard four visits to pre- and post-natal clinics (PNC).

  - 60 per cent of pregnant women visiting PNCs gave birth in a health care facility, or 32 per cent of all pregnant women;

  - two-thirds of deliveries are made by traditional birth attendants;

  - 10.6 per cent of the new mothers return for post-natal visits (family planning and infant follow-up).

1.2.3. Institutional activities within the public health-care structures are minimal for a number of reasons:

- Insufficient qualified personnel;

- Insufficient equipment and drugs;

- Lack of access to sanitary facilities.

1.3 The following tables show the distribution of public health care facilities in Madagascar and the changes in medical personnel from 1975 to 1983.

1.3.1. Numbers of public health-care structures - Madagascar 1985

Faritany	GH MH	MSH	OSH	MC	DU	HCS	NS	MS	PHCC
Antananarivo	2	2	14	26	17	103	32	8	162
Antsiranana	1	2	5	8	4	12	28	6	104
Fianarantsoa	1	2	13	19	6	110	19	28	212
Mahajanga	1	1	8	20	1	52	31	11	201
Toamasina	1	3	12	11	4	86	5	8	240
Toliary	1	3	6	19	6	55	28	14	187
Total	7	13	58	103	37	418	143	75	1 106

Source: Population and Health - Ministry of Health.

GH = General Hospital
MH = Main Hospital
MSH = Medical and Surgical Hospital
OSH = Ordinary Secondary Hospital
MC = Medical Centre
HCS = Health-Care Station
NS = Nurse's Station
MS = Maternity Station
PHCC = Primary Health-Care Centre

1.3.2. Evolution of different types of medical personnel per 100,000 inhabitants - Madagascar 1985

Types of medical personnel	Year 1975	1980	1985
Doctors/100,000 inhabitants	10	12	15
Midwives/100,000 women from 15 to 49 years of age	60	71	77
Nurses/100,000 inhabitants	30	37	41
Dentists/100,000 inhabitants	1	1	1
Pharmacists/100,000 inhabitants	1	1	1
Health workers/100,000 inhabitants	-	11	14

Source: Population, health and family planning, Georges RAKOTO, September 1988.

In short, it may be concluded that the two main factors of maternal mortality are the lack of medical care and unchecked fertility.

2. Fertility

2.1. General Fertility Index: 5.49

5.88 in rural areas

5.38 in secondary urban centres

3.50 in urban centres

Life expectancy for 1992: 49.5 for men
51.1 for women

2.2 Trends in Fertility rates by age in Madagascar

The movement of the fertility-by-age rate curve shows a sharp increase towards the 20-24 age group, followed by a plateau for the ages 20-29, and a gradual decline down to the last age group. It should be noted that the fertility rate is still high beyond the age of 35, and that menopause occurs between the ages of 45 and 50.

2.3. Fertility Factors

2.3.1. The first factor is the precociousness of sexual relations with low contraceptive use. The average marriage age in 1973 was:

- 23 for boys;
- 20 for girls.

However, there are different levels for different degrees of urbanization: in an urban environment marriage tends to occur later. Marriage and child-bearing among adolescents are, moreover, tell-tale signs of under-development and of the low status of women.

2.3.2. Inadequate sexual education

A lack of education seriously affects the very lives of young couples:

- Ignorance of contraceptive methods and family planning leads to (frequent) unwanted pregnancies requiring abortions performed under deplorable conditions;

- Young couples are often unaware of the existence of health care facilities even when these are available.

- New ideas are slow to take root.

- Financial problems and in some cases the husband's unwillingness to use habitual contraceptive methods.

3. Prospects

- To reduce the number of children born to each woman;

- To reduce the number of very early marriages and pregnancies among adolescents;

- To reduce maternal mortality for any cause including abortion;

- To increase life expectancy to 62 years of age or more;

- To ensure that all Malagasy families are aware of the problems related to pregnancies not widely enough spaced, malnutrition and abortions;

- To help adolescents by creating services geared to their needs.

- To enhance the training of medical and paramedical personnel in maternal and infant health techniques and birth spacing.

- To bring women's literacy rates up to 70 per cent and to implement the systematic enrolment of girls in primary schools by the year 2000.

"Article 13

1. States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life."

1. Women working in the formal sector, whether married or single, are entitled to family allowances, housing allowances and other official benefits.

2. Women may apply for bank loans, mortgages and any other form of credit without their husband's permission.

3. There is no legal or cultural obstacle preventing women from participating fully in recreational activities, sports and the various aspects of cultural life.

"Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all comunity and extension services, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications."

It should be noted first of all that:

- Women have the right to participate fully and with equal voting rights in popular organizations such as associations, cooperatives, etc.;

- They have the right to land and water;

- They may own land.

Economically active Malagasy women are chiefly engaged in farming or crafts in rural areas.

1. Farming activities

Agriculture is a dominant sector within the national economy. A high percentage of the active female population (81 per cent) is rural. From the technical point of view, farming operations are small and exhibit a low degree of mechanization.Population growth is beginning to outstrip the land available for cultivation. Capital is scant and farm work is consequently labour-intensive. Any increase in production is therefore achieved by employing additional labour.

Women perform a variety of farming jobs from planting out and weeding to sorting seeds, sowing and harvesting. Heavy work such as ploughing is normally reserved for men.

Men and women are interchangeable, however, in some cases:

- Ploughing and harrowing are the woman's responsibility when her husband is absent, as is the case when the woman is head of the household;

- When the husband is away from home working as a seasonal migrant worker, the women have sole charge of the farming operation.

The woman derives only a very small income from farm production, since most of it is kept by the family for its own consumption. The small proportion which is sold provides the family with the financial income necessary for its survival in an increasingly salary-based economy.

The crafts in which women engage are predominantly weaving, basket-making, pottery and dress-making. These are an exclusively female province and the techniques used are traditional skills that are somewhat time- and energy-consuming, which is not always reflected in the price of the articles produced. Furthermore, women engaged in crafts of this kind often have problems in obtaining adequate supplies of raw materials, and the markets are characterized by a superabundant supply and somewhat inflexible demand.

"Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. State Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile."

1. Men and women in Madagascar are treated on equal terms by courts. Women may institute legal proceedings or be summoned to court in their own name. Female lawyers may represent clients. Women may also sit on juries. Women may testify in legal proceeedings. They also have the same access as men to legal services. If they do not have the means to engage a lawyer they are entitled to legal aid. "The law accords to all the right to a legal defence, and that right shall not be obstructed for want of sufficient means" (Article 42.7 of the Constitution).

2. Malagasy women have the right to conclude contracts on their own behalf (credit agreements, property and commercial transactions, etc.). They may execute a will or administer an estate. They have the right to administer property without interference on the part of their husband and without his permission, whether or not the property was acquired during the marriage or belonged to the woman before the marriage or as a single woman.

"Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."

1. Conditions relating to marriage:

It should be noted first of all that the marriageable age is 14 years for girls and 17 years for boys, whereas the age of majority for purposes of marriage is 18 years.

The personal consent of the woman is necessary to validate the marriage. The consent of the parents is necessary for minor children of either sex, i.e. boys and girls under the age of 18 years.

2. The effects of marriage with respect to the spouses and children: obligations in terms of cohabitation, fidelity, aid and assistance.

(a) Cohabitation and fidelity obligations:

Order No. 62-089 of 1 October 1962 concerning marraige states that the husband is head of the household in order to provide the family with some unity of direction, but that the wife should assist in providing guidance and material support for the family. If the husband is untrustworthy or incapable, the wife must act as head of the household.

"Spouses are required to live together." The husband determines the common domicile. However, "in cases of disagreement between the spouses regarding the choice of a new common domicile, either spouse, at his or her own initiative, may bring the matter before a judge sitting in chambers" (this provision was adopted very recently).

Adultery by either spouse is punishable, but adultery on the part of the wife is still deemed a criminal offence. Adultery by the husband is only punishable when he keeps a concubine in the marital home. The wife and her lover are liable to a term of imprisonment of from two to three years, whereas the husband and his lover are liable to a fine of 18,000 FMG to 360,000 FMG (Article 324 of the Criminal Code).

Murder by the husband of his wife and lover surprised in flagrante delicto in the marital home is considered excusable; it is punishable by a term of imprisonment of one to five years only (Article 324 of the Criminal Code).

- Polygamy is prohibited and punishable under the law (as is well known, there has recently been a fresh outbreak of cases of polygamy);

- Bigamy is punishable by a term of imprisonment of six months to three years (Article 340 of the Criminal Code).

A woman may not be repudiated. She may institute divorce proceedings on the same basis as her husband: divorce legislation places the husband and the wife on the same basis of equality, the wife having full legal capacity.

As to common expenses during the marriage, both spouses are entitled to take action justified by the costs incurred as a result of the marriage. Spouses have a mutual obligation to support and assist each other financially. If the husband does not contribute to the costs of the household, his wife may request the judge to authorize a "distraint order" on her husband's income.

(b) Obligations to provide help and assistance

If the husband abandons his pregnant wife or his wife and children for longer than two months and if a legal decision is taken sentencing him to pay a maintenance allowance or the costs of the household, non-payment of such an allowance or such costs for a period of over two months is punishable by a term of imprisonment of fron three months to one year.

Where there are serious grounds, a woman may temporarily leave the marital home and exercise her "right to 'misintaka'".

The custom of "misintaka", a traditional institution which belongs to Malagasy customary law and is known to all the Malagasy tribes, favours the woman in particular. According to this custom, the woman is entitled to leave the marital home without her husband's permission if there is a dispute between the spouses involving either violence on the part of the husband or heated discussion. In such a case, the woman is obliged to return to her parents' home. Before receiving his wife back into the marital home, the husband must undertake the "fampodiana", which consists in making a donation in an established amount (a sum of money or oxen) to his wife at her parents' home.

3. Effects of marriage on property

The husband administers the couple's common property and the wife retains the administration of her own property where it has been kept separate.

The matrimonial regime under common law is based on equal sharing in accordance with a provision adopted in July 1990.

Under the regime of matrimonial property rights, spouses are offered a number of options:

- To opt for the system of sharing their property by dividing it into thirds (known as the "Kitay telo an-dâlana" regime): two thirds for the husband and one third for the wife. It should be noted that this was the former matrimonial regime under ordinary law.

- Or to adopt the regime of separation of property (in both cases it is sufficient to make a simple declaration to the relevant public officer.

- Or to draw up a contract establishing the rules governing their particular matrimonial regime.

If they do not choose any of these options, the couple is then placed under the ordinary law regime, which dictates equal sharing or "Zaramira".

As a general rule, spouses do not inherit from each other, the surviving spouse being relegated to eighth place in the following list of heirs:

"In the absence of a will or where succession is only partially by will, the heirs are placed in the following order without distinction of sex or primogeniture:

- First category: Children

- Second category: Grandchildren

- Third category: Mother and father

- Fourth category: Brothers and sisters

- Fifth category: Children of brothers and sisters

- Sixth category: Uncles and aunts

- Seventh category: First cousins

- Eighth category: Surviving spouse

- Ninth category: The State." (Article 16 of Law No. 68-012 of 4 July 1968 concerning successions, wills and donations.)

4. Women engaged in a union other than marriage

4.1 Women engaged in an unregistered common law union

This kind of union is considered socially legitimate if the provisions of ordinary law are respected when the union is established. The only problem arising is essentially that of winding up the common property acquired during the union. In recent cases a solution has been found by deciding that the judge who presided over the common-law union should be responsible for establishing the applicable custom. None the less, this custom will only continue to have compulsory force if it is not against the law or contrary to the new public order.

4.2 The concubine

There exist de facto partnerships which are formed outside the law and outside traditional customs. Modern laws disregard this situation, but do not prohibit it. In disputes concerning the disposal of property acquired by a concubine, the judge, precluded from referring either to the law on matrimonial regimes or to traditional practices, must apply the theory of the de facto partnership: in other words, the property acquired during the partnership is divided into two (provided that the husband is not involved in an adulterous relationship). Nowadays the law awards compensation to the concubine if she can prove personal, material and moral damage as a result of the death of her partner in a traffic accident.

GENERAL CONCLUSION

If women are fully to enjoy equality and the benefits of development and peace, they must not only have the opportunity and right to enter political life and to assist in decision-making, but also - and above all - they must:

- Be informed of their rights in order to be able to claim them; and

- Be effectively integrated into the process of national economic development in order to be able to exercise their rights in practice and thus achieve genuine equality.

1. Women's access to information

All Malagasy women must be able to read and write in order to qualify for access to the information that will help them and their families to improve their situation. Providing women with information is one of the main concerns at the present time of the Directorate for Women's and Children's Affairs, a national body working in parallel with the Directorate for Public Education and Literacy (Ministry of Population, Social Affairs, Youth and Sports), which is currently conducting a literacy campaign.

2. Effective participation of women in national life

The Government's efforts to involve Malagasy women in the internal workings of the economy on the same basis as men are part of a national policy to promote economic development and recovery.

Examples of this are the economic projects that the Malagasy Government plans to implement through the Ministry of Population, Social Affairs, Youth and Sports (in particular, the Directorate for Women's and Children's Affairs) in conjunction with United Nations agencies, the main ones being those implemented in cooperation with the United Nations Fund for Population (UNFPA), UNDP and UNICEF.

A practical strategy is still necessary, however, for implementing this Government policy aimed at enabling women to take a fully active rather than passive part in economic life. To this end a number of measures may be recommended:

2.1 General measures

Action to promote the effective participation by women in production and development could be strengthened by the following:

- Improving the basic data relating to the specific work performed by women in production, processing, preservation of foodstuffs and marketing. This could easily be achieved by:
  - Introducing appropriate technologies;
  - Instituting effective training programmes for groups of women (especially in rural areas) on the subject of basic agricultural techniques;
  - Introducing education and information programmes chiefly aimed at combating stereotyped sexist images.
- Integrating women into national planning in order to be able to gauge the socio-economic impact of development projects on the population as a whole and to determine the influence of women in the development sector in economic terms.

2.2. Specific measures

Access to credit: Women can be given easier access to credit by:

- Making the administrative facilities of credit institutions more flexible;

- Promoting savings associations or agricultural credit societies for women in order to facilitate the financing of investments beyond the means of individual women;

- Establishing more structures at all levels to deal with matters of financial management, savings and loans.

Finally, it should be stressed that equality between men and women is often a function of harmony within the family and enhancement of the family's financial situation.

Notes

1/ United Nations estimates in the absence of recent official data (the date of the last general census of the population is 1985).

2/ Analysis of the condition of women and children, UNICEF, April 1993.

3/ Data relating to the school year 1987/88 provided by the Ministry of Secondary and Basic Education.

4/ ILO-JASPA (Job and Skills Programme for Africa), Women's employment in Madagascar, 1985.